

August 20, 1999

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

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**REPORT AND DECISION**

**SUBJECT:** Department of Development and Environmental Services File No. **L98P0003**

**ASTON GARDENS**  
Preliminary Plat Application

Location: Between Northeast 120<sup>th</sup> Street and Northeast 119<sup>th</sup> Street,  
west of 84<sup>th</sup> Avenue Northeast

Applicant: The Sayers Associates, *represented by* **Julian Sayers**  
1133 - 37<sup>th</sup> Avenue, Seattle, WA 98122

Owner: Jean and Jerry Fiorito  
11907 – 84<sup>th</sup> Avenue NE, Kirkland, WA 98034

Department: DDES/Land Use Services Division, *represented by*  
**Keri Akers**  
900 Oakesdale Ave SW, Renton, WA 98055

**SUMMARY OF DECISION:**

Department's Preliminary:	Approve, subject to conditions
Department's Final:	Approve, subject to conditions
Examiner:	Approve, subject to conditions

**PRELIMINARY MATTERS:**

Application or petition submitted:	January 20, 1998
Complete application:	February 17, 1998

**EXAMINER PROCEEDINGS:**

Hearing Opened:	August 12, 1999
Hearing Closed:	August 12, 1999

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.  
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

## ISSUES/TOPICS ADDRESSED:

- future subdivision—minimum density

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

## FINDINGS:

1. **General Information.**

Developer:	Jean and Jerry Fiorito, 11907 – 84 <sup>th</sup> Avenue NE, Kirkland, WA 98034
Engineer:	Dowl Engineers, 8320 – 154 <sup>th</sup> Avenue NE, Issaquah, WA 98027
STR:	25-26-04
Location:	Between NE 120 <sup>th</sup> Street and NE 119 <sup>th</sup> Street, west of 84 <sup>th</sup> Avenue NE
Zoning:	R-8-P
Acreage:	5.01
Number of Lots	20
Density:	4 units/acre
Lot Size:	Approximately 4,500 square feet
Proposed Use:	Single family residences
Sewage Disposal:	Northshore Utility District
Water Supply:	Northshore Utility District
Fire District:	King County Fire District #41
School District	Lake Washington
Complete Application Date:	February 17, 1998

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the August 12, 1999 public hearing are found to be correct and are incorporated herein by reference. The LUSD Staff recommends approval of the application, subject to conditions.
3. Jean and Jerry Fiorito have filed a preliminary plat application to subdivide 5.01 acres into 20 lots for single family residential development. Lot 20 encompasses an existing residence on the eastern one-third of the property that will be retained. Future redivision of Lot 20 has been demonstrated to be feasible and will enable the project to meet minimum density requirements. This is an infill development within the Finn Hill neighborhood, and surface water management and road variances have been granted in order to conform the subdivision to existing development patterns.

## CONCLUSIONS:

1. If approved subject to the conditions imposed below, the proposed subdivision makes appropriate provision for the public health, safety and welfare; serves the public use and interest; and meets the requirements of RCW 58.17.110.

2. The conditions of approval imposed herein, including dedications and easements, will provide improvements which promote legitimate public purposes, are necessary to serve the subdivision and are proportional to its impacts; are required to make the proposed plat reasonably compatible with the environment; and will carry out applicable state laws and regulations and the laws, policies and objectives of King County.

DECISION:

The preliminary plat of Aston Gardens, as revised and received August 11, 1999, is APPROVED, subject to the following conditions of final approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.
3. The plat shall meet the base density of the R-8 zone classification. All lots shall meet the minimum dimensional requirements of the R-8 zone classification or shall be generally as shown on the face of the approved preliminary plat, whichever is larger. Minor revisions to the plat that do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. The applicant must obtain final approval from the King County Health Department.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended.
6. The applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
7. Final plat approval shall require full compliance with drainage provisions set forth in King County Code 9.04 and the storm drainage requirements and guidelines as established by the Surface Water Management Division. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. The following conditions represent portions of the Code and requirements and shall apply to all plats.
  - a. Drainage plans and analysis shall comply with the 1990 King County Surface Water Design Manual and updates which were adopted by Public Rule effective January 1, 1995. DDES approval of the drainage and roadway plans is required prior to any construction.
  - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
  - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm

drain outlet as shown on the approved construction drawings # \_\_\_\_\_ on file with DDES and/or the Department of Public Works. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."

- d. The applicant has received approval for the requested diversion of surface water within the project (see Attachment 4, SWM Variance L98V0046). Drainage control facilities will be provided onsite with discharge to the existing storm system along NE 120<sup>th</sup> Street. The conditions for variance approval include the requirement to evaluate adequate capacity of the downstream conveyance system prior to engineering plan approval. As indicated by Chapter 6 in the applicant's downstream drainage analysis, the catch basins located north of the intersection of Juanita Drive and NE 120<sup>th</sup> Street should be thoroughly cleaned to provide adequate capacity. The final engineering plans shall include provisions to implement this requirement.
  - e. Stormwater runoff shall be provided using standard peak rate runoff control as outlined in the drainage manual. Biofiltration of stormwater is also required for water quality enhancement. The runoff control facilities shall be located in a separate tract and dedicated to King County unless portions of the drainage tract are used for required recreation space in accordance with KCC 21A.14.180.
8. KCC 16.82.150D requires seasonal limitations for construction within the Northshore Community Planning Area. During the period from October 1 through March 31, clearing and grading is not allowed unless certain provisions are complied with as outlined in the code. The applicant's engineering plans and construction procedures shall demonstrate compliance with the applicable code requirements.
9. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:
- a. During preliminary review, the applicant submitted a road variance application regarding designs for road and right-of-way width, frontage improvements, and the 100-lot limitation on a dead-end road (File No. L98V0011). The variance received conditional approval by the County Road Engineer on March 1, 1999. The design requirements listed in the decision letter shall be implemented during final plat review. (See Attachment 2.)
  - b. The on-site cul-de-sac road shall be improved as an urban minor access street.
  - c. As required by KCRS 5.03, street trees should be included in the design of all road improvements.
  - d. Modifications to the above road conditions may be considered by King County pursuant to the variance procedures in KCRS 1.08.
10. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.

11. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid;" if the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
12. Suitable recreation space and facilities shall be provided consistent with the requirements of KCC 21A.14.180 and 190. Tract A (stormwater facility tract) will be enhanced for passive recreational opportunities pursuant to 21A.14.180D. Tot/child play facilities shall be provided within Tract B.

An overall conceptual recreation space plan shall be submitted for review and approval by DDES, with the submittal of the engineering plans. This plan shall include location, area calculations, dimensions, and general improvements. The approved engineering plans shall be consistent with the overall conceptual plan.

A detailed recreation space plan (i.e., landscape specs, equipment specs, etc.) consistent with the overall conceptual plan, shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of the final plat documents.

A performance bond for recreation space improvements shall be posted prior to recording of the plat.

13. A homeowners' association or other workable organization shall be established to the satisfaction of DDES to provide continued ownership of the stormwater tract, recreation facilities and recreation tracts; and maintenance of the recreation facilities and associated landscaping, street trees, and walkway.
14. The following condition shall apply to implement the P-suffix conditions to this property:  
  
SO-220 (Significant Trees): Significant trees shall be retained in a residential subdivision at the rate of 20 trees per acre or ten percent of such trees, whichever is greater. A significant tree inventory shall be submitted for review prior to or with submittal of development permit applications. A detailed tree retention plan shall be submitted for review prior to or with submittal of grading permit applications or other permit applications involving grading plans.
15. Lots within the Aston Gardens subdivision are subject to King County Ordinance 10162 and Ordinance 12532, which imposed impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat received final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
16. To implement the proposed plat phasing, the applicant shall dedicate the required right-of-way for the road frontages along Phase I (Lot 1), along with an easement for public use for the

pedestrian walkway. Construction of the required frontage improvements and the pedestrian walkway will occur with Phase II of this development. DDES shall determine the required notes shown on the final plat to assure phased implementation of all applicable plat conditions.

ORDERED this 20<sup>th</sup> day of August, 1999.

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Stafford L. Smith, Deputy  
King County Hearing Examiner

TRANSMITTED this 20<sup>th</sup> day of August, 1999, to the parties and interested persons shown on the attached list.

#### NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) *on or before September 3, 1999*. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council *on or before September 10, 1999*. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

#### MINUTES OF THE AUGUST 12, 1999 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT & ENVIRONMENTAL SERVICES FILE NO. L98P0003 – ASTON GARDENS:

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were Keri Akers, Peter Dye, Julian Sayers.

The following exhibits were offered and entered into the hearing record:

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|---------------|---|
| Exhibit No. 1 | Department of Development and Environmental Services File No. L98P0003                      |
| Exhibit No. 2 | Department of Development and Environmental Services preliminary report dated July 29, 1999 |
| Exhibit No. 3 | Application dated January 20, 1998  |
| Exhibit No. 4 | Environmental checklist dated January 20, 1998  |
| Exhibit No. 5 | Declaration of Nonsignificance dated June 30, 1999  |

- Exhibit No. 6 Affidavit of Posting indicating March 3, 1998, as date of posting and June 10, 1998, as the date the affidavit was received by the Department of Development and Environmental Services
- Exhibit No. 7 Plat map dated August 11, 1999
- Exhibit No. 8 Land Use map 421E
- Exhibit No. 9 Assessors map 30-26-5
- Exhibit No. 10 Additional condition to staff report (Condition No. 16)
- Exhibit No. 11 Level One Drainage Analysis dated January 20, 1998
- Exhibit No. 12 P-suffix conditions SO-220, KCC 16.82.150D
- Exhibit No. 13 Traffic Impact Analysis dated January 20, 1998
- Exhibit No. 14 Motion 4848, by the King County Council dated May 5, 1880
- Exhibit No. 15 Staff report on the preliminary plat of Juanita Glen, File No. 1079-10, dated January 18, 1980

SLS:vam  
attachment  
L98\L98P0003 RPT